

# **Exhibit 35**



U.1958.136/1

## V.L.K. 23. november 1957 sag II 1591/1957

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**Sidetal:** 136

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**Sag om erstatning for skade ved pumpearbejde, kunne anlægges ved retten på det sted, hvor skaden var sket.**

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**Værneting** – En retssag mod et københavnsk selskab S om erstatning for skade, foranlediget af pumpearbejder, som S havde foretaget på nogle i Jylland lejede arealer, fandtes, uanset at kravet kun støttedes på naboretlige regler og reglerne om farlig bedrift, i medfør af retsplejelovens § 244 at kunne anlægges ved retten for det sted, hvor skaden var sket. <sup>[Note 1]</sup>

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maler Anius Pedersen, Egum (landsretssagf. Ditlevsen, Fredericia) mod Egum Kiselgurværk a/s, København (landsretssagf. Gormsen)

Under sag II 1591/1957 – maler Anius Pedersen, Egum (landsretssagf. Ditlevsen, Fredericia) mod Egum Kiselgurværk a/s, København (landsretssagf. Gormsen) – påstod sagsøgeren sagsøgte dømt til at betale en erstatning på 5000 kr. i anledning af, at den på hans ejendom i Ullerup sogn værende brønd er udtørret, efter at sagsøgte i 1956 havde påbegyndt pumpearbejder på nogle i nærheden af hans ejendom liggende arealer, som sagsøgte har lejet til brug for sin virksomhed. Sagsøgeren støttede sin påstand dels på naboretlige regler, dels på reglerne om ansvar for farlig bedrift, og indstævnedes under henvisning til rpl. § 244 sagsøgte til at møde for retten i Fredericia som forberedende ret.

Sagsøgte påstod sagen afvist, da rpl. § 244 kun finder anvendelse for erstatningskrav, der støtter sig på retsstridige skadestilføjelser eller andre retskrænkelser, medens erstatningskravet i denne sag kun støttedes på regler, for hvilke det er karakteristisk, at der kan tilkendes erstatning, selv om den udøvede virksomhed er retmæssig.

### Vestre Landsret

#### I V.L.K. 23. november 1957 siges det:

Da den omstændighed, at det rejste erstatningskrav støttes på naboretlige regler og reglerne om farlig bedrift ikke findes at føre til, at bestemmelsen i retsplejelovens § 244 er uanvendelig, vil sagsøgerens påstand være at tage til

følge. – – –

## Fodnoter

[1] Jfr. U.f.R. 1926 A p. 767 og Munch-Petersen: Den danske Retspleje (2. udg.) p. 30.



1958

U.1958.136/I

## V.L.K. 23. November 1957 case II 1591/1957

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A claim for compensation for damage during pumping work could be brought before the court at the place where the damage had occurred.

**Venue** - A lawsuit against a Copenhagen company S for compensation for damage caused by pumping work, which S had carried out on some areas rented in Jutland, existed, regardless of the fact that the claim was only based on legislation on neighborhood and the rules on dangerous operations, pursuant to the Administration of Justice Act §. 244 to be able to be brought before the court of the place where the damage had occurred. \

painter Anius Pedersen, Egum (High Court plaintiff Ditlevsen, Fredericia) against Egum Kiselgurværk A/S, Copenhagen (district court Gormsen)

During case II 1591/1957 - painter Anius Pedersen, Egum (high court case Ditlevsen, Fredericia) against Egum Kiselgurværk A/S, Copenhagen (district court Gormsen) - the plaintiff claimed that the defendant had been sentenced to pay compensation of DKK 5,000 on the grounds that the well on his property in Ullerup parish had dried up after the defendant in 1956 had begun pumping work on some areas near his property. which the defendant has leased for the purpose of its business. The plaintiff based its claim partly on the legislation on neighborhood and partly on the rules on liability for dangerous operations, and sued with reference to the Code of Judicial Procedure. § 244 defendant to appear before the court in Fredericia as a preparatory court.

Defendant alleged the case was dismissed when the Code of Judicial Procedure Section 244 only applies to claims for damages based on unlawful additions of damages or other infringements of law, while the claim for damages in this case was only based on rules for which it is characteristic that compensation can be awarded, even if the business is lawful.

### Vestre Viken

#### In V.L.K. 23 November 1957 it is said:

Since the fact that the claim for damages is based on neighboring law rules and the rules on dangerous holding is not found to lead to the provision in section 244 of the Administration of Justice Act being inapplicable, the plaintiff's claim will be

follow. - - -

## Footnotes

I- U.f.R. 1926 A p. 767 and Munch-Petersen: Den danske Retspleje (2nd ed.) P. 30.

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